Docket No.: 00-VE22.40C1
Customer Number 32127
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
John H. Wurster

Application No.: 10/632,803 | Confirmation No.: 7425

Filed: August 4, 2003 | Art Unit: 2614

For: TELEPHONE NETWORK CONTROL SYSTEM AND METHOD | Examiner: Rasha S. AL-AUBAIDI

APPEAL BRIEF

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

As required under § 41.37(a), this brief is filed more than two months after the Notice of Appeal filed in this case on April 4, 2008, and is in furtherance of said Notice of Appeal.

The fees required under § 41.20(b)(2) are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

This brief contains items under the following headings as required by 37 C.F.R. § 41.37 and M.P.E.P. § 1205.2.

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I. REAL PARTY IN INTEREST

The real party in interest of the present application, solely for purposes of identifying and avoiding potential conflicts of interest by board members due to working in matters in which the member has a financial interest, is Verizon Communications Inc. and its subsidiary companies, which currently include Verizon Business Global, LLC (formerly MCI, LLC) and Cellco Partnership (doing business as Verizon Wireless, and which includes as a minority partner affiliates of Vodafone Group Plc). Verizon Communications Inc. or one of its subsidiary companies is an assignee of record of the present application.

II. RELATED APPEALS AND INTERFERENCES

There are no other appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

III. STATUS OF CLAIMS

A. Total Number of Claims in Application

There are 23 claims pending in application.

B. Current Status of Claims

1. Claims canceled: 11, 14 and 17
2. Claims withdrawn from consideration but not canceled: None
3. Claims pending: 1-10, 12-13, 15-16 and 18-26
4. Claims allowed: None
5. Claims rejected: 1-10, 12-13, 15-16 and 18-26

C. Claims On Appeal

The claims on appeal are claims 1-10, 12-13, 15-16 and 18-26.

IV. STATUS OF AMENDMENTS

Applicant did not file an Amendment After Final Rejection.

V. SUMMARY OF CLAIMED SUBJECT MATTER

A summary of the claimed subject matter with cross-reference to elements of the preferred embodiments described in the specification is provided below. Such cross-reference is not a representation by applicant that the scope of the claimed subject matter be limited to the preferred embodiments.

According to claim 1, a method of controlling a telecommunications network (Figs. 1-2, pg. 7, line 21, – pg 15, line 1) comprises the steps of: recognizing a condition (pg. 6, lns 20-22; pg. 9, lns 18-20; pg. 11, lns 24-25, pg 14, lns 12-14); initiating a first call in response to recognizing the condition (pg 14, lns 14-17; pg 15, lns 3-7), including transmitting a first call set-up message indicating a first special calling party number (pg 15, lns 6-7); detecting a trigger when said first call reaches a switching point in the telecommunications network (pg 14, lns 1-4; pg 15, lns 9-10); in response to detecting the trigger, transmitting a first query message (pg 9, lns 20-22; 26-29; pg 12, lns 5-6) to a control point (SCP 19, 220) in the telecommunications network, said first query message including said special calling party number (pg 15, ln 11); receiving said first query message at said control point (pg 15, lns 11-13); and storing an indicator of said condition in response to receiving said first special calling party number (pg 15, lns 11-13).

According to claim 10 a telecommunications system (Figs. 1-2, pg. 7, line 21, – pg 15, line 1) comprises a switched telephone network (pg. 7, ln 29) including a plurality of switching points (SSP 11, 205, 206, 208, 210, 212 and 214) interconnected by a plurality of communications links (pg 8, lns1-4, and further including a number of subscriber lines associated with respective subscribers (pg 8, lns 4-12); a database (SCP 19, 220, LIDB 225) connected to the switched telephone network (pg 2, lns 22-26; pg 3, ln 13; pg 9, lns 20-23), the database storing call processing records associated with respective subscribers of said switched telephone network (pg 12, lns 23-26; pg 13, lns 7-10); a server (ICM application server 245) configured to detect a condition of a subscriber line associated with one of the respective subscribers (pg 14, lns 12-14) and, in response to detecting the condition (pg 14, lns 14-15), initiate a call to the subscriber line including a call set-up message indicating a special calling party number (pg 14, lns 15-17; pg 15, lns 5-9); wherein said switching points (SSP 11, 205, 206, 208, 210, 212 and 214) are configured to receive the call set-up message (pg 9, lns 14-17) and

transmit a query message to said database in response to receiving said call set-up message (pg 9, lns 20-22; 26-29; pg 12, lns 5-6), the query message including the special calling party number (pg 15, lns 9-11), and wherein said database (SSP) is configured to receive said query message and to set a service status flag of a call processing record associated with said subscriber line in response to receiving the special calling party number (pg 15, lns 11-12).

According to claim 18, a switched telephone network (Figs. 1-2, pg. 7, line 21, – pg 15, line 1) comprisesa plurality of a Service Switching Points (SSPs) (SSP 11, 205, 206, 208, 210, 212 and 214) configurable to provision triggers associated with telephone lines of designated ones of subscribers served by respective ones of said SSPs (pg 9, lns 18-20; pg 12, lns 6-8; pg 14, lns 1-6); a system (ICM application server 245) configured to detect a condition associated with one of the telephone lines of one of the designated subscribers of the telephone network (pg 14, lns 12-14) and, in response to said condition, initiate a call to said telephone line using an ISDN User Part (ISUP) call set-up message (pg 9, lns 16-17) including a special calling party number (pg 15, lns3-9); a service control point (SCP) connected to said plurality of SSPs and configured to store service status associated with each of said designated subscribers (pg 12, lns 23-26; pg 13, lns 7-10); wherein said plurality of SSPs are further configured to receive the ISUP call set-up message including the special calling party number and, in response, transmit a TCAP query message including the special calling party number to the SCP (pg 15, lns 9-11), and wherein the SCP is configured to receive the query message, modify the service status indicator associated with the one of the designated subscribers based on the special calling party number (pg 15, lns 11-13, and supply call handling instructions based on the service status indicator associated with the one of the designated subscribers for subsequent calls to said telephone line (pg 15, lns 24-26; pg 16, lns 11-15).

According to claim 20, a method of processing calls to a telephone line serving a called party comprises the steps of: identifying a connection status of said telephone line of said called (pg. 6, lns 20-22; pg. 9, lns 18-20; pg. 11, lns 24-25, pg 14, lns 12-14); in response to determining a busy condition (pg 14, lns12-15), (a) initiating a first call to said called party using a special calling party number (pg 14, lns 15-16; pg 15, lns 3-9), (b) transiting a first query message to a remote control point (pg 15, lns 9-11), said first query message including said special calling party number (pg 15, ln 11), and (c) in response to receiving said special calling

party number at the remote control point (pg 15, lns 9-10), setting a status indicator of said telephone line at said remote control point (pg 15, lns 12-13); receiving a request for a second call to the telephone line, the second call from a calling party (Figs 4-8; pg 15, lns 15-19); initiating the second call using a second call set-up message indicating a calling party number associated with the calling party (pg. 15, lns 17-20); and transmitting a second query message to the remote control point, said second query message including the calling party number associated with the calling party (pg 15, lns 21-24; pg 18, lns 12-13, 16-18).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Applicant seeks review of the following grounds of rejection set forth in the Final Office Action having a notification date of February 2, 2007 (hereinafter the "Office Action"):

Whether claims 1-10, 12-13, 15-16 and 18-26 are properly rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,930,700 (filed November 27, 1996, issued July 27, 1999) to Pepper et al. (hereinafter "Pepper") in view of U.S. Patent No. 4,941,203 (filed November 13, 1989, issued July 10, 1990) to Patsiokas et al. (hereinafter "Patsiokas").

VII. ARGUMENT

As more fully set forth below, the rejections by the Examiner in the Office Action are improper because:

1. The applied art fails to teach or suggest a system or method according to the respective claims.

2. The combination of references asserted by the Examiner is improper as the modification would render the device of the primary reference inoperative.

A. Independent Claim 1

Claim 1 recites a method that includes:

recognizing a condition;
initiating a first call in response to recognizing the condition, including transmitting a first call set-up message indicating a first special calling party number;
detecting a trigger when said first call reaches a switching point in the telecommunications network;
in response to detecting the trigger, transmitting a first query message to a control point in the telecommunications network, said first query message including said special calling party number;
receiving said first query message at said control point; and
storing an indicator of said condition in response to receiving said first special calling party number.

In connection with claims 1, 5, 7-8 and 20, according to the Examiner:

...Pepper teaches recognizing a condition (this reads on alerting the subscriber that there is a pending call, see col. 6, lines 42-46); initiating a first call including transmitting a call set-up message (this reads on the caller identification information that is sent to the called party, see col. 6, lines 12-22) indicating a special calling party number (this reads on the caller ID for calling party, i.e. calling party telephone number, see col. 6, lines 12-17 and/or calling party PIN, see col. 12, lines 60-63); detecting an AIN trigger when said call reaches a point in the telecommunications network (this reads on the arrival of an incoming call, which is detected at the TNI 304, which alerts the service control module 306 when the call has been received, see col. 6, lines 12-15). The limitations "Transmitting a query message to a control point in the

telecommunications network, said query message including said special calling party number; receiving said query message at said control point" are inherent in Pepper system since all the details record regarding the call must be stored in the database, (see col. 9, lines 58-65). Pepper also teaches storing in response to said special calling party number an indicator of said condition in response to receiving said special calling party number (see col. 9, lines 58-65).

Office Action of January 4, 2008.

The Examiner concedes that:

"Pepper does not specifically teach the limitation of 'initiating a call in response to recognizing a condition'."

This failing of Pepper had been brought to the Examiner's attention by the Amendment filed October 6, 2005. In Applicant's Remarks, claim 1 was distinguished as requiring at least two features, Pepper failing to describe:

1. a system in which a call is initiated in response to recognizing a condition using a special calling party number; and

2. storing an indicator of a condition in response to receiving a special calling party number.

The Examiner asserts that Pepper satisfies these elements, citing to col. 6, lines 12 -22, that read as follows:

When a call comes in for a subscriber, the TNI 304 answers the call and alerts the service control module 306 that a call has been received for a given line which may be determined by Dialed Number Identification Service (DNIS) from a given location which may be determined by Automatic Number Identification (ANI) (e.g., "Caller ID"). The service control module 306 uses the DNIS information to determine who the subscriber is that the call is directed to and then uses the subscriber's client list (i.e., the PhoneBook database) in the network database 308 to attempt to identify the call origin using the associated ANI information.

Pepper, col. 5, lns 12-22.

Contrary to the Examiner's assertions, sending identification information is not the same as "initiating a first call" as required by claim 1. If there were any doubt, the further language of claim 1 makes it clear that the "call" is not any communication but includes "transmitting a first

call set-up message indicating a first special calling party number". One skilled in the art would understand that "call set-up" includes processing used to establish a connection between, for example, network terminals using some protocol such as ISDN User Part (ISUP) The ISDN ISUP defines the protocol used to set-up, manage and release trunk circuits that carry voice and data between terminating line exchanges (e.g., between a calling party and a called party). In contrast to the broad interpretation asserted by the Examiner, call set-up is the process of establishing a connection between two communicating entities. In the voice network, call setup involves interpreting the dialed number and establishing a connection between the caller and the destination. The cited portion of Pepper describes the use of DNIS information. It does not describe or suggest "initiating a first call in response to recognizing a condition" or "transmitting a first call set-up message".

Nor does Pepper describe or suggest the use of a "special calling party number". The Examiner has taken the position that:

> ...a special calling party number ... reads on the caller ID for calling party, i.e., calling party telephone number, see col. 6, lines 12-1 7 and/or calling party PIN, see col. 12, lines 60-63...

Office Action at page 3.

Caller ID or a calling party PIN is not the same as a the claimed "special calling party number". According to an embodiment, the special calling party number is an invalid Calling Party Number:

> In a preferred embodiment, if the computer 230 has just established connection to the Internet, the ICM server 245 would originate a call with an invalid Calling Party Number (CPN) such as 999 999-0000. Alternately, if the computer 230 has just ended an Internet session, the ICM server 245 would originate a call with a CPN of 999 999-0001.

Applicant's disclosure at page 15, lines 5 – 9.

It is the use of the special calling party number, such as an invalid CPN, that allows the system (e.g., a Service Control Point or "SCP") to appropriately set a status indicator. Pepper fails to disclose or suggest use of a special calling party number. Nor is the use of a special

calling party number inherent. Contrary to the Examiner's position, since there is no suggestion of using such a special calling party number, transmitting such cannot be inherent.

Likewise, the Examiner's further assertion that Pepper stores an indicator of a condition ignores the claim language that the step of storing be accomplished in response to receiving a special calling party number. In particular, the Examiner contends that:

> *...Pepper teaches con col. 9, lines 58-65 that in subscriber's data a message can be pending in addition to an indication for this message. The claimed feature of "storing an indicator of said condition" can read on marking the message urgent.*

Office Action at page 7.

The Examiner fails to address Applicant's contention that Pepper merely describes a database that stores various information, such as a date book, phone book and pending messages but does not describe storing an indicator of said condition in response to receiving the special calling party number, as required by claim 1.

Patsiokas does not cure the deficiencies of Pepper. Returning to the first point, the Examiner takes the position that:

> *...Patsiokas teaches if a call has been received (this also reads on recognizing the condition) the remote unit is alerted and the voice communication is established (reads on the response after recognizing the condition) (see cot. 7, lines 39-43).*

Office Action at page 3.

The Examiner continues, contending that

> *[I]t would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the feature of establishing a call in response to recognizing the alert for the incoming call, as taught by, Patsiokas into the Pepper system in order to provide sufficient time to answer a call.*

As an initial matter, even if it were proper to combine Patiokas with Pepper, the language of claim 1 would still not be met since there is no call set-up message indicating a first special calling party number disclosed by either Pepper or Patsiokas.

Furthermore, not only would a method as recited by claim 1 not follow from either of the references, but it appears that the combination suggested by the Examiner where Pepper is modified to incorporate the Patsiokas system would render the Pepper device inoperative. That is, as the Examiner applies Pepper, caller identification information that is sent to a called party is asserted as equivalent to the claimed first call that is initiated in response to recognizing a condition. It appears to be the Examiner's position that one skilled in the art would send such caller identification information according to Pepper in response to receiving a call that, according to Patsiokas, instead results in alerting a remote unit to the incoming call and establishing voice communications. However, establishing voice communication would defeat the screening feature of Pepper, thereby rendering it inoperative for its intended purpose. Any detectable condition that might be inferred from Patsiokas has no relationship to the operation of the Pepper device. To the contrary, modifying Pepper according to Patsiokas would render the device of Pepper inoperative for its intended screening purpose thereby rendering the combination improper.

Based on the foregoing, Applicant believes claim 1 to be patentable over Pepper and Patsiokas.

B. Independent Claim 20

The rejection of independent claim 20 is considered to be improper for the reasons set forth above in connection with claim 1 which arguments for patentability are incorporated and repeated herein. That is, in addition to the impropriety of the asserted combination of Pepper and Patsiokas, the references singularly and in combination fail to teach or suggest the language of claim 20 including transmitting a first query message to a remote control point, the first query message including the special calling party number. The use of the special calling party number provides a distinct method of communicating with the control point that is absent from the prior art. The prior art further fails to suggest setting a status indicator of the telephone line at the remote control point in response to receiving the special calling party number.

In particular, claim 20 recites a method including:

> identifying a connection status of said telephone line of said called party ;

in response to determining a busy condition ---

(a) initiating a first call to said called party using a special calling party number,

(b) transmitting a first query message to a remote control point, said first query message including said special calling party number, and

(c) in response to receiving said special calling party number at the remote control point, setting a status indicator of said telephone line at said remote control point;

receiving a request for a second call to the telephone line, the second call from a calling party;

initiating the second call using a second call set-up message indicating a calling party number associated with the calling party; and

transmitting a second query message to the remote control point, said second query message including the calling party number associated with the calling party.

The applied art does not teach or suggest such a method. For example, as noted with respect to claim 1, neither Pepper nor Patsiokas describe "in response to determining a busy condition ... initiating a first call to said called party using a special calling party number, ... and ... in response to receiving said special calling party number at the remote control point, setting a status indicator of said telephone line at said remote control point," as recited by claims 20. Moreover, the applied art does not teach or suggest "initiating the second call using a second call set-up message indicating a calling party number associated with the calling party; and transmitting a second query message to the remote control point, said second query message including the calling party number associated with the calling party." The absence of these portions of claim 20 from the descriptions of Pepper and Patsiokas indicates that claim 20 is patentable thereover. The rejection is further considered to be improper as the combination of Pepper with Patsiokas is improper for the reasons presented above in connection with claim 1.

Accordingly, claim 20 is believed to be allowable over the applied prior art.

C. Dependent Claims 5 and 7-8 Are Separately Patentable

1) Claim 5

Dependent claim 5 requires that the step of recognizing a condition include determining a status associated with a subscriber telephone number and that the step of initiating a first call

include calling the subscriber telephone number. As admitted by the Examiner, Pepper fails to teach initiating a call in response to recognizing a condition. To address this deficiency the Examiner applies Patsiokas for teaching that, if a call has been received, a remote unit is alerted and voice communication is established. However establishing voice communication is not the same as initiating a [first] call [transmitting a first call set-up message indicating a first special calling party number] by calling the subscriber telephone number. Thus claim 5 is considered to be allowable independent of claim 1 from which it depends.

2) Claim 7

Claim 7, dependent from base claim 1 and intervening claim 6, further requires that the step of initiating the first call includes calling a telephone number of the subscriber line. As previously detailed, the claimed "first call" is not intended or used to establish communication with the subscriber but, instead, to provide an alternate method of signaling a remote control point, such as an SCP, to set some status indicator. As required by claim 1, the storing of an indicator of the condition is responsive to a special calling party number that is part of call set-up message associated with the call. As Pepper fails to describe or suggest use of such a special calling party number it is to be expected that it also fails to describe or suggest calling a telephone of the subscriber telephone line. To the contrary, since Pepper is directed to establishing communications, then there would be no reason to call the subscriber line if it were already known to be in use. In contrast, since embodiments of the claimed invention are directed to alternative processing when the subscriber's telephone line is in use and is busy, the special calling party number is used to notify the remote control point about whether the busy condition is due to a subscriber accessing the Internet. Thus, not only does Pepper fail to satisfy the language of claim 7, providing the claimed functionality would be useless to the device taught by Pepper rendering the modification improper. Accordingly, claim 7 is patentable thereover.

3) Claim 8

While the Examiner rejects claim 8 over Pepper, the basis of the rejection and/or how the art has been applied is not clear from the Detailed Action at pages 2 and 3. In particular, claim 8 requires:

> *...storing an indicator of said condition in response to receiving said first special calling party number includes a step of setting a flag as part of a call processing record of an associated subscriber*

Pepper fails describe the language of claim 8 including setting a flag as part of a call processing record of an associated subscriber nor does the Examiner appear to assert otherwise. Accordingly, the rejection of claim 8 is believed to be improper.

D. Dependent Claims 2 and 4 Are Separately Patentable

The Examiner takes the position that:

> *Claims 2, 4, 10 and 18 are rejected for the same reasons as discussed above with respect to claim 1. Also the limitation of "updating said indicator of said condition in response to receiving said other special calling party number" as recited in claims 2 and 4 simply reads on receiving another call from another calling party and repeating the method of claim 1.*

Office Action at page 4.

However, claims 2 and 4 require "recognizing a change of said condition" and "initiating a second call in response to recognizing the change of the condition, including transmitting a second call set-up message indicating a second special calling party number":

2. The method of claim 1 further comprising the steps of:
recognizing a change of said condition;
initiating a second call in response to recognizing the change of said condition, including transmitting a second call set-up message indicating a second special calling party number;
detecting a trigger when said second call reaches a switching point in the telecommunications network;
transmitting a second query message including said second special calling party number;
receiving said other query message including said second special calling party number; and
updating said indicator of said condition in response to receiving said second special calling party number.

Neither Pepper nor Patsiokas teach or suggest recognizing a *change* of a defined (i.e., "said") condition. As previously detailed, Pepper describes a system and method that allow a subscriber to automatically screen incoming calls. The applied art has nothing to do with call set-up messages, much less use of first and second special calling party numbers as part of a call set-up message.

E. Dependent Claim 9 Is Separately Patentable

Addressing claim 9, the Examiner asserts:

> Regarding claim 9, Pepper does not specifically teach transmitting a disconnect request. However, it teaches that a message will be sent from the calling party to the called party and this message can have any kind of contents (see col. 9, lines 61-65 and col. 10, lines 28-35). The limitation basically reads on the calling party sending a request to the called party asking him/her to disconnect from the line if he/she is currently engaged in a call conversation for example. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have the calling party sending a disconnect request message to the called party to inform him/her (called party) that the he/she (calling party) would like to talk to him/her (calling party) at the moment. Advantages of such limitations are well known in the art such as speaking to the called party in the event of an emergency (i.e., a parent trying to reach a child at home who is either speaking on the phone with friend or engaged in on-line session).

Final Action at Page 6.

Claim 9 requires a step of transmitting a disconnect request. As best understood, it appears that the Examiner has fabricated a scenario wherein a calling party may request that a

party to be called hang up their telephone to free-up the line so that they could receive a call from the calling party. This suggestion comes from the Examiner, not from the applied references and is thereby improper. Further, even if there was a teaching to ask a party to disconnect, such would not meet the language of claim 9 as would be understood by one skilled in the art. Simply put, asking a party to hang up is not the same as transmitting a disconnect request. Accordingly, claim 9 is believed to be allowable.

F. Independent Claim 10

Claim 10 recites a system that includes:

> a switched telephone network including a plurality of switching points interconnected by a plurality of communications links, and further including a number of subscriber lines associated with respective subscribers;
>
> a database connected to the switched telephone network, the database storing call processing records associated with respective subscribers of said switched telephone network;
>
> a server configured to detect a condition of a subscriber line associated with one of the respective subscribers and, in response to detecting the condition, initiate a call to the subscriber line including a call set-up message indicating a special calling party number;
>
> wherein said switching points are configured to receive the call set-up message and transmit a query message to said database in response to receiving said call set-up message, the query message including the special calling party number, and wherein said database is configured to receive said query message and to set a service status flag of a call processing record associated with said subscriber line in response to receiving the special calling party number.

Claim 10 is considered to be allowable for, *inter alia*, the reasons presented above in connection with independent claims 1 and 20 which arguments are included and repeated herein. In particular, neither Pepper nor Patsiokas, singularly or in combination, teach or suggest the system of claim 10. For example, neither teach or suggest "a server configured to detect a condition of a subscriber line associated with one of the respective subscribers and, in response to detecting the condition, initiate a call to the subscriber line including a call set-up message indicating a special calling party number," or a database "configured to receive said query message and to set a service status flag of a call processing record associated with said subscriber line in response to receiving the special calling party number," as recited by claim 10. As noted above with respect to claim 1, neither Pepper nor Patsiokas describe a device that detects a

subscriber line condition and initiates a call to the subscriber line using a call set-up message including a special calling party number. Likewise, neither describe setting a service status flag associated with a subscriber in response to receiving the special calling party number.

Based on the foregoing, Applicant believes claim 10 to be patentable over both Pepper and Patsiokas, singular and in combination. Applicant further considers the combination of Pepper and Patsiokas to be improper for the reasons present above in connection with claim 1. Accordingly, the rejection is believed improper.

G. Dependent Claims 12, 13, 15 and 16 Are Separately Patentable

As claims 12, 13, 15 and 16 depend from claim 10, and therefore include all of the limitations of claims 10, Applicant believes claims 12, 13 15 and 16 to be patentable over Pepper and Patsiokas for the same reasons set forth above in connection with claim 10 and for the additional reasons set forth below.

1) Claim 12

Claim 12 requires, *inter alia*, that the special calling party number be an invalid telephone number. Addressing claim 12, the Examiner refers back to the rejections of claims 1, 3 and 7-8 which rejections state:

> Regarding claims 3 and 19, Pepper teaches said special party numbers are different invalid calling party number (this basically reads on the calling party entering unidentified number, see col. 6, lines 17-24).

Action at page 4.

However, entering an unidentified number is not the same as an invalid telephone number (e.g., a telephone number that is not just unknown but would initiate some exception processing) or using an invalid telephone number to produce some special processing such as the claimed setting of a service flag of a call processing record associated with a subscriber.

2) Claim 13

It is understood that the Examiner considers claim 13 to be unpatentable for the reasons given in connection with claim 8. However, there is no mention in the rejection of claim 8 of any portion of the applied references describing the use of a service status flag or its equivalent. Accordingly, the rejection of claim 13 is considered to be improper.

3) Claim 15

The Examiner directs attention to SSP 118 of Pepper as teaching a local switching point serving a subscriber. However the Examiner otherwise ignores the language of claim 15 which, not only requires switching points to selectively route an incoming call, but that it do so "in response to a message from said database, said message reflecting a status of said service status flag." As previously discussed, the claimed service status flag is set responsive to receiving the special calling party number. Pepper neither teaches not suggests such a status flag nor routing a call in response to such flag. Accordingly, claim 15 is considered to be allowable thereover.

4) Claim 16

Claim 16 require both a Service Control Point (SCP) and a plurality of Service Switching Points (SSPs). The database is configured to receive a query message and set a service status flag of a call processing record associated with a subscriber line in response to receiving a special calling party number. As the prior art makes no mention of such a special calling party number, claim 16 is considered to be patentable thereover.

H. Independent Claim 18

In further contrast to both Pepper and Patsiokas, claim 18 recites a network that includes:

> a plurality of a Service Switching Points (SSPs) configurable to provision triggers associated with telephone lines of designated ones of subscribers served by respective ones of said SSPs;
>
> a system configured to detect a condition associated with one of the telephone lines of one of the designated subscribers of the telephone network and, in response to said condition, initiate a call to said telephone line using an ISDN User Part (ISUP) call set-up message including a special calling party number;

a service control point (SCP) connected to said plurality of SSPs and configured to sore service status associated with each of said designated subscribers;

wherein said plurality of SSPs are further configured to receive the ISUP call set-up message including the special calling party number and, in response, transmit a TCAP query message including the special calling party number to the SCP, and wherein the SCP is configured to receive the query message, modify the service status indicator associated with the one of the designated subscribers based on the special calling party number, and supply call handling instructions based on the service status indicator associated with the one of the designated subscribers for subsequent calls to said telephone line.

Neither Pepper nor Patsiokas teach or suggest a network. For example, neither Pepper nor Patsiokas describe "a system configured to detect a condition associated with one of the telephone lines of one of the designated subscribers of the telephone network and, in response to said condition, initiate a call to said telephone line using an ISDN User Part (ISUP) call set-up message including a special calling party number." or an SCP "configured to receive the query message, modify the service status indicator associated with the one of the designated subscribers based on the special calling party number, and supply call handling instructions based on the service status indicator associated with the one of the designated subscribers for subsequent calls to said telephone line," as recited in claim 18. Applicant notes that claim 18 includes many similar limitations to those in claim 10 (including additional imitations, for example, with respect to specific message formats and systems devices), and thus Applicant believes claim 18 to be patentable over the applied for at least the same reasons as claim 10 (discussed above). Applicant further considers the combination of Pepper and Patsiokas to be improper for the reasons present above in connection with claim 1. As a result, Applicant respectfully requests that the Examiner withdraw the rejection of claims 18.

I. Dependent Claims 3 and 19 Are Separately Patentable

Claims 3 and 19 require that the first and second special party numbers be different invalid calling party numbers, claim 19 additionally requiring the numbers be associated with respective conditions to be reflected by the service status indicators. The Examiner takes the position that "this basically reads on the calling party entering unidentified number", citing to Pepper at col. 6, lines 17-24. The cited portion of Pepper describes that:

The service control module 306 uses the DNIS information to determine who the subscriber is that the call is directed to and then uses the subscriber's client list (i.e., the PhoneBook database) in the network database 308 to attempt to identify the call origin using the associated ANI information.

Pepper at col. 6, lines 17-24.

Note that there is no mention of any invalid calling party numbers. Nor is there any mention of entering an unidentified number. Still further, as set forth above, an invalid number is not the same as an unidentified number in any case. Accordingly, claims 3 and 19 are considered to be allowable.

J. Dependent Claims 21-26 Are Separately Patentable

1) Claims 22 and 25

The Examiner takes the position that transmitting a TCAP message between the SSP and SCP is inherent within AIN but ignores the remaining claim language including:

"said first special calling party number [is] recognized as an invalid telephone number".

The art of record never describes or suggests the use of an invalid telephone number for any purpose, much less as a special calling party number used to transmit a status indication. Accordingly, claims 22 and 25 are allowable over the applied art.

2) Claim 23

The Examiner maintains that receiving multiple calls in inherent in the system. However, the claimed "third call" of claim 23 is in addition to a first call that includes a special calling party number and a second call from a calling party. The prior art fails to describe or suggest a special calling party number and thereby fails to defeat the patentability of claim 23.

3) Claim 26

The Examiner rejects claim 26 "for the same reasons as discussed above with respect to claim 23." However, the language of claim 26 is quite different from that of claim 23, claim 26 requiring "a step of processing, in response to said status indicator, said second call." Having

failed to address processing a call in response to a status indicator or otherwise explain the basis of the rejection, the rejection is considered to be improper for lack of any support.

4) Claims 21 and 24

The Examiner takes the position that use of an ISDN user part message would have been obvious. In response, it is noted that claims 21 and 24 require more including that the ISUP be part of the first call set-up message. As mentioned above and recited by respective base claims, the call set-up message indicates or includes a special calling party number, something neither taught nor suggested by the applied art. Accordingly, claims 21 and 25 are considered to be allowable.

K. Conclusion

Appellant has provided arguments that overcome the pending obviousness rejections. The Examiner's conclusion that the claims should be rejected is unwarranted. Therefore, Appellant respectfully requests that the Board overturn the Examiner's rejection of claims 1-10, 12-13, 15-16 and 18-26.

A copy of the claims involved in the present appeal is attached hereto as Appendix A.

This Appeal Brief is accompanied by payment of the fee for filing a brief in support of an appeal under 41.20(b)(2) together with a petition and corresponding fee for a two month extension of time. If any additional fees are due in connection with this filing, please charge our Deposit Account No. 08-2025, under Order No. 414.035CON/09908721 from which the undersigned is authorized to draw and please credit any excess fees to such deposit account.

Dated: July 10, 2008

Respectfully submitted,

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APPENDIX A

Claims Involved in the Appeal of Application Serial No. 10/632,803

1. A method of controlling a telecommunications network comprising the steps of:

recognizing a condition;

initiating a first call in response to recognizing the condition, including transmitting a first call set-up message indicating a first special calling party number;

detecting a trigger when said first call reaches a switching point in the telecommunications network;

in response to detecting the trigger, transmitting a first query message to a control point in the telecommunications network, said first query message including said special calling party number;

receiving said first query message at said control point; and

storing an indicator of said condition in response to receiving said first special calling party number.

2. The method of claim 1 further comprising the steps of:

recognizing a change of said condition;

initiating a second call in response to recognizing the change of said condition, including transmitting a second call set-up message indicating a second special calling party number;

detecting a trigger when said second call reaches a switching point in the telecommunications network;

transmitting a second query message including said second special calling party number;

receiving said other query message including said second special calling party number; and

updating said indicator of said condition in response to receiving said second special calling party number.

3. The method of claim 2 wherein said first and second special party numbers are different invalid calling party numbers.

4. The method of claim 2 wherein said step of updating said indicator includes a step of updating said indicator to a status existing prior to said step of storing.

5. The method of claim 1 wherein said step of recognizing a condition includes a step of determining a status associated with a subscriber telephone number and said step of initiating a first call includes a step of calling said subscriber telephone number.

6. The method of claim 1 wherein said step of detecting a trigger is performed at a terminating switch serving a subscriber telephone line.

7. The method of claim 6 wherein said step of initiating said first call includes calling a telephone number of said subscriber telephone line.

8. The method of claim 1 wherein said step of storing an indicator of said condition in response to receiving said first special calling party number includes a step of setting a flag as part of a call processing record of an associated subscriber.

9. The method of claim 1 further comprising a step of transmitting a disconnect request.

10. A telecommunications system comprising:

a switched telephone network including a plurality of switching points interconnected by a plurality of communications links, and further including a number of subscriber lines associated with respective subscribers;

a database connected to the switched telephone network, the database storing call processing records associated with respective subscribers of said switched telephone network;

a server configured to detect a condition of a subscriber line associated with one of the respective subscribers and, in response to detecting the condition, initiate a call to the subscriber line including a call set-up message indicating a special calling party number;

wherein said switching points are configured to receive the call set-up message and transmit a query message to said database in response to receiving said call set-up message, the query message including the special calling party number, and wherein said database is configured to receive said query message and to set a service status flag of a call processing record associated with said subscriber line in response to receiving the special calling party number.

11. Canceled

12. The telecommunications system of claim 10 further comprising a server configured to detect a condition associated with said one subscriber and, in response, initiate said call to said one subscriber including said special calling party number, wherein said special calling party number being an invalid telephone number indicative of said condition.

13. The telecommunications system of claim 10 wherein said service status flag is also associated with said one subscriber.

14. Canceled

15. The telecommunications system of claim 10 wherein said switching points are configured to selectively route an incoming call in response to a message from said database, said message reflecting a status of said service status flag.

16. The telecommunications system of claim 10 wherein said database comprises a Service Control Point (SCP), and said plurality of switching pints comprise a plurality of Service Switching Points (SSPs).

17. Canceled.

18. A switched telephone network comprising:

a plurality of a Service Switching Points (SSPs) configurable to provision triggers associated with telephone lines of designated ones of subscribers served by respective ones of said SSPs;

a system configured to detect a condition associated with one of the telephone lines of one of the designated subscribers of the telephone network and, in response to said condition, initiate a call to said telephone line using an ISDN User Part (ISUP) call set-up message including a special calling party number;

a service control point (SCP) connected to said plurality of SSPs and configured to sore service status associated with each of said designated subscribers;

wherein said plurality of SSPs are further configured to receive the ISUP call set-up message including the special calling party number and, in response, transmit a TCAP query message including the special calling party number to the SCP, and wherein the SCP is configured to receive the query message, modify the service status indicator associated with the one of the designated subscribers based on the special calling party number, and supply call handling instructions based on the service status indicator associated with the one of the designated subscribers for subsequent calls to said telephone line.

19. The telecommunications system of claim 18 wherein said special party numbers are different invalid calling party numbers associated with respective conditions to be reflected by said service status indicators.

20. A method of processing calls to a telephone line serving a called party, comprising the steps of:

identifying a connection status of said telephone line of said called ;

in response to determining a busy condtion ---

(a) initiating a first call to said called party using a special calling party number,

(b) transiting a first query message to a remote control point, said first query message including said special calling party number, and

(c) in response to receiving said special calling party number at the remote control point, setting a status indicator of said telephone line at said remote control point;

receiving a request for a second call to the telephone line, the second call from a calling party;

initiating the second call using a second call set-up message indicating a calling party number associated with the calling party; and

transmitting a second query message to the remote control point, said second query message including the calling party number associated with the calling party.

21 The method of claim 1 wherein said first call set-up message comprises an ISDN User Part (ISUP) message.

22 The method of claim 21 wherein:

said step of transmitting a first query message includes transmitting a Transaction Capabilities Application Part (TCAP) message from said switching point to the control point;

the control point comprises a Service Control Point (SCP); and

said first special calling party number transmitted in a calling party identification portion of said TCAP message, said first special calling party number recognized as an invalid telephone number.

23 The method of claim 21 further comprising a step of processing, in response to said indicator, a subsequent third call initiated to the same telephone number as said first call.

24 The method of claim 20 wherein said step of initiating a first call to said called party includes transmitting an ISDN User Part (ISUP) message to a Service Switching Point (SSP) serving said called party.

25. The method of claim 24 wherein:

Said step of transmitting a first query message includes transmitting a Transaction Capabilities Application Part (TCAP) message from said SSP to the remote control point;

the remote control point comprises a Service Control Point (SCP); and

said special calling party number is transmitted in a calling party identification portion of said TCAP message, said special calling party number recognized as an invalid telephone number.

26. The method of claim 24 further comprising a step of processing, in response to said status indicator, said second call.

APPENDIX B

EVIDENCE

No evidence pursuant to §§ 1.130, 1.131, or 1.132 or entered by or relied upon by the examiner is being submitted.

APPENDIX C

RELATED PROCEEDINGS

No related proceedings are referenced in II. above, hence copies of decisions in related proceedings are not provided.